

the Secretary of the Treasury and the Secretary of Homeland Security of its action under subsection (a) to direct the exclusion of covered articles from entry.

“(B) REFUSAL OF ENTRY.—Upon receipt of notice under subparagraph (A) regarding the exclusion of covered articles from entry, the Secretary of the Treasury shall refuse the entry of those articles.

“(4) CONTINUATION IN EFFECT.—Any exclusion from entry of covered articles under subsection (a) shall continue in effect until the Commission—

“(A) determines that the conditions that led to such exclusion from entry do not exist; and

“(B) notifies the Secretary of the Treasury of that determination.

“(5) MODIFICATION OR RESCISSION.—

“(A) IN GENERAL.—An interested person may petition the Commission for a modification or rescission of an exclusion order under subsection (a).

“(B) REVISITATION OF EXCLUSION.—The Commission may modify or rescind the exclusion at any time at the discretion of the Commission.

“(C) BURDEN OF PROOF.—The burden of proof in any proceeding before the Commission regarding a petition made by an interested person under subparagraph (A) shall be on the interested person.

“(D) RELIEF.—A modification or rescission for which a petition is made under subparagraph (A) may be granted by the Commission—

“(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding; or

“(ii) on grounds that would permit relief from a judgment or order under the Federal Rules of Civil Procedure.

“(E) EVIDENTIARY STANDARD.—A modification or rescission may be made under subparagraph (A) if an interested person provides to the Commission clear and convincing evidence that such a modification or rescission should be made.

“(e) CIVIL ACTIONS.—

“(1) IN GENERAL.—A civil action challenging a determination by the Commission under subsection (a) may be brought only—

“(A) in the United States Court of Appeals for the Federal Circuit; and

“(B) not later than 60 days after a petition for modification or rescission under subsection (d)(5) with respect to that determination has been conclusively decided.

“(2) PROCEDURES FOR REVIEW OF PRIVILEGED INFORMATION.—If a civil action challenging a determination under subsection (a) is brought under paragraph (1) and the court determines that protected information in the administrative record, including classified or other information subject to privilege or protections under law, is necessary to resolve the challenge, that information shall be submitted ex parte and in camera to the court and the court shall maintain that information under seal.

“(3) APPLICABILITY OF USE OF INFORMATION PROVISIONS.—The use of information provisions of sections 106, 305, 405, and 706 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806, 1825, 1845, and 1881e) shall not apply in a civil action challenging an investigation or determination under this subsection.

“(f) INAPPLICABILITY OF THE ADMINISTRATIVE PROCEDURE ACT.—

“(1) IN GENERAL.—The requirements of subchapter II of chapter 5 of title 5, United States Code, shall not apply to—

“(A) an action conducted by the Commission under paragraphs (1) through (3) of subsection (c); or

“(B) the procedures for exclusion under paragraphs (4) and (5) of subsection (d).

“(2) ADJUDICATION.—Any adjudication under this section shall not be subject to the requirements of sections 554, 556, and 557 of title 5, United States Code.

“(g) FREEDOM OF INFORMATION ACT EXCEPTION.—Section 552 of title 5, United States Code (commonly referred to as the ‘Freedom of Information Act’), shall not apply to the activities conducted under this section.

“(h) REGULATIONS.—The Commission may prescribe such regulations as the Commission considers necessary and appropriate to carry out this section.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

“(j) DEFINITIONS.—In this section:

“(1) ARTICLE.—The term ‘article’ includes any article or component of an article, including digital or physical articles.

“(2) COVERED ARTICLE.—The term ‘covered article’ means an article subject to exclusion from the United States under subsection (a).

“(3) FOREIGN AGENT; FOREIGN INSTRUMENTALITY; IMPROPER MEANS; MISAPPROPRIATION; OWNER; TRADE SECRET.—The terms ‘foreign agent’, ‘foreign instrumentality’, ‘improper means’, ‘misappropriation’, ‘owner’, and ‘trade secret’ have the meanings given those terms in section 1839 of title 18, United States Code.

“(4) INTERESTED PERSON.—The term ‘interested person’, with respect to an allegation under subsection (b)(5)(A), means a person named in the allegation or otherwise identified by the Commission as having a material interest with respect to the allegation.”.

(c) CLERICAL AMENDMENT.—The table of contents for the Tariff Act of 1930 is amended by inserting after the item relating to section 341 the following:

“Sec. 342. National security exclusion for articles or components of articles that contain, were produced using, benefit from, or use trade secrets misappropriated or acquired through improper means by a foreign agent or foreign instrumentality.”.

**SA 1872.** Mr. CORNYN (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II of division E, add the following:

**SEC. 5214. COORDINATION OF SCREENING OF FOREIGN DIRECT INVESTMENT.**

(a) FINDINGS.—Congress makes the following findings:

(1) Strategic investment through foreign direct investment has emerged as a threat posed by countries that do not abide by or respect the rules-based, global trading system.

(2) Such countries continue to exploit gaps in the uncoordinated and divided framework among countries that do abide by the rules-based, global trading system, both in developed countries by investments in critical technologies and supply chains and developing countries, while creating depend-

encies, debt traps, and exploitation of natural resources without improving the living conditions in such countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should work with other developed countries that abide by the rules-based, global trading system to improve the effectiveness of their screening of foreign direct investment through better coordination, including by—

(1) establishing a group dedicated to improving such screening at a forum of heads of state, such as the Group of 7;

(2) developing and agreeing to written best practices and a commitment to sharing relevant information at the ministerial level; and

(3) using technical assistance to assist developing countries in establishing foreign direct investment screening mechanisms.

(c) REPORT ON COORDINATION OF SCREENING OF FOREIGN DIRECT INVESTMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of State, shall submit to appropriate committees of Congress a report on the work done as of the date of the report under section 721(c)(3) of the Defense Production Act of 1950 (50 U.S.C. 4565(c)(3)) to establish a formal process for the exchange of information relating to foreign investment with countries that are allies or partners of the United States.

(2) ELEMENTS.—The report required by paragraph (1) shall include—

(A) a description of the work described in paragraph (1), including a list of the countries and engagements as of the date of the report conducted under section 721(c)(3) of the Defense Production Act of 1950;

(B) a description of the formal process established under that section;

(C) a table showing the amounts expended as of the date of the report under that section, disaggregated by fiscal year, country, and purpose;

(D) a description of plans to establish a forum at the Group of 7 or other forum to discuss international harmonization of foreign direct investment screening, best practices, and technical assistance to foreign countries, or any other actions taken or planned to achieve those same objectives; and

(E) any recommendations to Congress on ways to improve international harmonization of foreign direct investment screening, best practices, and technical assistance to foreign countries.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—The term “appropriate committees of Congress” means—

(A) the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Financial Services, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives.

**SA 1873.** Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows: